

IN THE SUPREME COURT OF THE STATE OF ALASKA

ORDER NO. 1670

Amending Criminal Rule 37(b) and adding a Note to implement direct court rule amendments made by chapter 75 SLA 2008 (SB 265);

Adding a Note to Criminal Rule 35.1 concerning indirect rule amendments made by chapter 75 SLA 2008 (SB 265); and

Adding a Note to Civil Rules 60 and 82 concerning indirect rule amendments made by chapter 92 SLA 2008 (HB 65).

IT IS ORDERED:

1. Criminal Rule 37 is amended to read as follows, *effective nunc pro tunc to July 1, 2008*:

Rule 37. Search and Seizure.

* * * *

(b) **Execution and Return with Inventory.** The warrant shall be executed and returned within 30 days after its date of issuance. However, upon sworn application made before the expiration of the initial 30 day period or any subsequent extension, the court may for good cause extend the execution period for a reasonable time not to exceed 30 days. Good cause includes protecting the confidentiality of an ongoing investigation and protecting a person working with law enforcement authorities on an investigation. The officer taking property under the warrant

(1) shall give to the person from whom or from whose premises the property was taken a copy of the warrant, a copy of the supporting affidavits, and receipt for the property taken, or

(2) shall leave the copies and the receipt at the place from which the property was taken.

The return shall be made promptly and shall be accompanied by a written inventory of any property taken as a result of the search pursuant to or in conjunction with the warrant. The inventory shall be made in the presence of the applicant for the warrant and the person from whose possession or premises the property was taken, if they are present, or in the presence of at least one credible person other than the applicant for the warrant or the person from whose possession or premises the property was taken, and shall be signed by the officer under the penalty of perjury pursuant to AS 09.63.020 or sworn to in front of a magistrate or judge, or a notary public. The magistrate or judge or the court to which the return is made shall upon request deliver a copy of the inventory to the person from whom or from whose premises the property was taken and to the applicant for the warrant.

* * * *

2. The following note is added to the end of Criminal Rule 37, *effective nunc pro tunc to July 1, 2008*:

Note: Chapter 75, section 41, SLA 2008 (SB 265), effective July 1, 2008, amended Criminal Rule 37(b) relating to the execution of search warrants, as reflected in section 1 of this Order. The changes to Criminal Rule 37(b) are adopted for the sole reason that the legislature has mandated the amendments.

3. The following Note is added to the end of Criminal Rule 35.1, *effective nunc pro tunc to July 1, 2008*:

Note: Chapter 75 SLA 2008 (SB 265), effective July 1, 2008, enacted extensive changes to various criminal statutes. According to section 42 of the Act, AS 12.72.020(a) and (b) as amended by sections 26 and 27, and the provisions of AS 12.72.020(d), as added by section 28, have the effect of amending Criminal Rule 35.1 by restricting the authority of a court to hear certain applications, claims, or proceedings for post-conviction relief and by prescribing a procedure for a court to determine if an application, claim, or proceeding may be considered.

4. The following Note is added to the end of Civil Rule 60, *effective July 1, 2009*:

Note: Chapter 92 SLA 2008 (HB 65) added a new chapter to AS 45 relating to security of personal information, effective July 1, 2009. According to section 6(a) of the Act, AS 45.48.640, enacted by section 4, has the effect of changing Civil Rule 60(b) by allowing a court to vacate an order on its own motion and at any time and by establishing a specific criterion for vacating the order under AS 45.48.640.

5. The following Note is added to the end of Civil Rule 82, *effective July 1, 2009*:

Note: Chapter 92 SLA 2008 (HB 65) added a new chapter to AS 45 relating to security of personal information, effective July 1, 2009. According to section 6(b) of the Act, AS 45.48.200(a), 45.48.480(b), 45.48.560, and 45.48.750(d), enacted by section

4, have the effect of changing Civil Rule 82 by changing the criteria for determining the amount of attorney fees to be awarded to a party in an action under AS 45.48.200(a), 45.48.480(b), 45.48.560, or 45.48.750(d).

DATED: July 10, 2008

EFFECTIVE DATE: As provided in Order

/s/

Chief Justice Fabe

/s/

Justice Matthews

/s/

Justice Eastaugh

/s/

Justice Carpeneti

/s/

Justice Winfree